



8-12-05

3743

Sh

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/027,394  
Filing Date: 12/21/2001  
Applicant: Bruce G. Kania  
Title: Treatment Devices Providing Targeted Antimicrobial Action  
Examiner/GAU: Kim M. Lewis/3743

**PROVISIONAL ELECTION**

The Honorable Commissioner for Patents  
Washington, District of Columbia 20231

Dear Sir:

In response to the Official Action mailed July 12, 2005, Applicant provisionally elects, with traverse, Group I, Claims 1-11 for further reexamination on the merits in the present application.

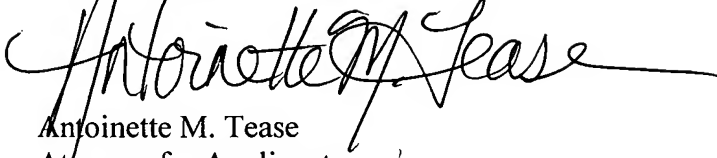
Applicant respectfully traverses the restriction requirement because the PTO has not carried forward its burden of proof to establish distinctness. In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

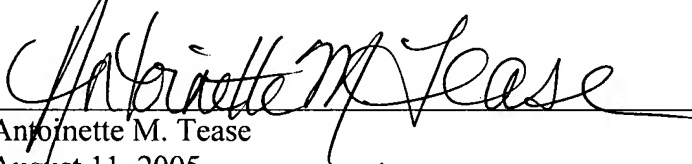
Accordingly, Applicant respectfully traverses the outstanding election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the examiner.

Respectfully submitted,

A handwritten signature in cursive script, reading "AnjoINETte M. Tease". The signature is written in dark ink and is positioned above the printed name and address.

AnjoINETte M. Tease  
Attorney for Applicant  
PO Box 51016  
Billings, MT 59105  
(406) 245-5254  
Registration No. 53860

**Certificate of Mailing:** I certify that on the date below this document and referenced attachments, if any, were deposited with the U.S. Postal Service as Express Mail in an envelope addressed to: "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450."

A handwritten signature in cursive script, reading "AnjoINETte M. Tease". The signature is written in dark ink and is positioned above the printed name and date.

AnjoINETte M. Tease  
August 11, 2005



<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/027,394	
	Filing Date	12/21/2001	
	First Named Inventor	Bruce G. Kanla	
	Art Unit	3743	
	Examiner Name	Kim M. Lewis	
Total Number of Pages in This Submission	3	Attorney Docket Number	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<b>Remarks</b> Provisional Election		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Antoinette M. Tease, P.L.L.C.		
Signature			
Printed name	Antoinette M. Tease		
Date	08/11/2005	Reg. No.	53680

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Antoinette M. Tease	Date	08/11/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.